

**REMARKS**

Claims 1-31 are present in this application. Claim 31 has been added. Claims 1, 7, 15, 17, and 19 are independent claims.

**Claim Objection**

Claims 2-4 and 6 have been objected to for minor informalities. Claims 2, 4, and 6 have been amended to recite "data recording device" as recommended in the Office Action. Applicant requests that the objection to the claims be withdrawn.

**Claim Rejection under 35 USC 112**

Claims 19-30 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. The Office Action indicates that it is not clear whether claims 19-30 claim an entrance ticket in a performance recording system or to a performance recording system. The claims have been amended to recite a performance recording system. Applicant requests that the rejection be reconsidered and withdrawn.

**Claim Rejection under 35 USC 102(e) – Ellis**

Claims 1-6 and 15-18 have been rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Application Publication 2005/0028208 (Ellis 1). Applicant respectfully traverses this rejection.

It is noted that the rejection incorporates U.S. Application Publication 2003/0149988 (Ellis 2). However, Ellis 1 incorporates U.S. Application No. 09/332,244. Ellis 2 is not the published application for 09/332, 244, but a continuation of U.S. Application 09/332,244.

Claim 1

Embodiments covered by claim 1 include a data recording device (e.g., Information Processing Device 2). Embodiments of the data recording device can include receiving means (e.g., Data Receiving Section 23) for receiving data distributed through a distribution medium (e.g., Broadcasting System 102), a comparison means (e.g., Identifier Comparing Section 25) for making a comparison between a data identifier included in the data received by the receiving means ("IDENTIFIER") and a data identifier inputted from the outside (e.g., from Identifier Receiving Section 21 and Identifier Storing Section 22), and storing means (e.g., Data Storing Section 27) for storing data having the data identifier when the two data identifiers coincide with each other.

In a preferred embodiment, a portable device receives in a receiving section, an identifier of a performance that is sent from the performance site. An identifier of the performance is individually determined for each performance, and functions as a key necessary for later obtaining accurate record data from the broadcasting system or network (page 13, lines 4-8). The identifier is transmitted to the information processing device 2.

Ellis 1

Ellis 1 discloses an interactive remote access program guide 24. Ellis 1 teaches that program listings may be displayed in a program listing screen by a suitable display device (para. 0112). Program listings may be displayed in a list, as shown in Fig. 8 (para. 0116). Also, a program listings display screen can be displayed on the remote access program guide using a user interface 52 (para. 0125). The remote access program guide may also provide the

opportunity to remotely schedule recordings using local interactive program guide 17 (Fig. 19). The remote access program guide may respond to a command by sending one or more access communications to the local interactive program guide 17 to record the program associated with the selected listing when the program is aired (para. 0127).

#### Differences over Ellis 1

The Office Action indicates that the program guide equipment 17 of Ellis 1 (Fig. 2a) teaches the claimed “data recording device.” The Office Action indicates that control circuitry 42 of the television, shown in Fig. 4 (Fig 2: user television 22) as having “video and data in,” teaches the claimed receiving means. The Office Action appears to indicate that any of the various storage devices 47, 49, or 56 of Ellis (Figs. 4, 5) teaches the claimed “storing means.” The Office Action indicates that data input by a user using remote access device 24 would have to be compared to a program title provided in program guide data and the selected title is recorded (Office Action at page 4). The Office Action concludes that the claimed “comparing means” would be inherent in the program guide equipment 17.

Applicant submits that Ellis 1 fails to teach or suggest the claimed “comparing means for making a comparison between a data identifier included in the data received by the receiving means and the a data identifier inputted from the outside.” In particular, Applicant submits that there is insufficient evidence of inherency that Ellis teaches the function of a comparison between a data identifier included in the data received by the receiving means and a data identifier inputted from the outside, i.e., a comparison performed after the data has been received.

According to Ellis 1, television distribution facility 16 may distribute program guide data to multiple users (i.e., user television equipment 22) via communications path 20 (para. 0068). User television equipment 22 may transfer the program guide data to remote program guide access device 24. When a user wants to access the program guide, a command is entered in the remote program guide access device 24, which generates an appropriate display screen for display using user interface 52 (para. 0110). The user can then select from a display of program listings (para. 0112 to 0116; Figs. 7 and 8).

Thus, Ellis teaches that a user would select from the displayed listings of the program guide. Applicants submits that there is no suggestion of comparing means for making a comparison between e.g. a program title in the displayed listing and a e.g. program title inputted by the user, as alleged in the Office Action.

The Office Action also alleges that recording a program based on a selected title would constitute the claimed storing means storing data having the data identifier when the two data identifiers coincide with each other. This argument appears to imply that a title selected by a user from the displayed program listing would constitute a data identifier inputted from the outside, and a title of the recorded program would constitute a data identifier included in the data received by the receiving means.

To the contrary, Ellis does not teach or suggest comparing means for making a comparison between e.g. a title of a recorded program (i.e., after it has been received by the receiving means) and the title selected by the user, and storing the program when the titles, i.e. data identifiers coincide.

The claimed invention requires a comparing means making a comparison between data identifiers, where one data identifier is received through a distribution medium and the other data identifier is inputted from the outside, and based on the comparison storing data having the data identifier.

These arguments apply as well to the method and recording medium recited in claims 15-18.

For at least these reasons, Applicant requests that the rejection be reconsidered and withdrawn.

**Claim Rejection under 35 USC 103(a) – Ellis**

Claims 7-13 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis 1. Applicant respectfully traverses this rejection.

**Claim 7**

Embodiments of the present invention covered by claim 7 are directed to a performance recording system (e.g., Performance Recording System in Fig. 1). Aspects of the performance recording system include a portable device (e.g., portable device 1) capable of obtaining and storing a data identifier given to a performance at a performance site, a distribution medium (e.g., Broadcast Station 104 or Server 105) for distributing record data of the performance as data together with the data identifier, a data recording device (e.g., Information Processing Device 2) which stores record data based on the data identifier from the portable device and the data identifier from the distribution medium. The data recording device including a receiving means (e.g., Data Receiving Section 23) for receiving data distributed through a

distribution medium (e.g., Broadcasting System 102), a comparison means (e.g., Identifier Comparing Section 25) for making a comparison between a data identifier included in the data received by the receiving means ("IDENTIFIER") and a data identifier inputted from the outside (e.g., from Identifier Receiving Section 21 and Identifier Storing Section 22), and storing means (e.g., Data Storing Section 27) for storing data having the data identifier when the two data identifiers coincide with each other.

The data recording device in claim 7 recites comparable features to the data recording device of claim 1. Applicant submits that at least for the reasons above for claim 1, the rejection fails to establish *prima facie* obviousness for claim 7 and respective dependent claims, as well. In particular, it is noted that Applicant submits that Ellis fails to teach comparing means that makes a comparison between a data identifier included in data received by the receiving means (e.g., a title of a program that has been received for recording) and a data identifier inputted from the outside (e.g., a title from the remote device 24).

Applicant requests that the rejection of claims 7-13 be reconsidered and withdrawn.

**Claim Rejection under 35 USC 103(a) – Ellis, Sehr**

Claims 14 and 19-30 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis 1 and U.S. Patent 6,999,936 (Sehr). Applicant respectfully traverses this rejection.

Embodiments of the present invention covered by claim 19 are directed to a performance recording system (e.g., Performance Recording System in Fig. 1). Aspects of the performance recording system include a portable device (e.g., portable device 1) having a data identifier storing means (e.g., identifier storing section 12) for previously storing a data identifier given to a performance, a distribution medium (e.g., Broadcast Station 104 or Server 105) for

distributing record data of the performance as data together with the data identifier, a data recording device (e.g., Information Processing Device 2) which stores record data based on the data identifier from the portable device and the data identifier from the distribution medium. The data recording device including a receiving means (e.g., Data Receiving Section 23) for receiving data distributed through a distribution medium (e.g., Broadcasting System 102), a comparison means (e.g., Identifier Comparing Section 25) for making a comparison between a data identifier included in the data received by the receiving means ("IDENTIFIER") and a data identifier inputted from the outside (e.g., from Identifier Receiving Section 21 and Identifier Storing Section 22), and storing means (e.g., Data Storing Section 27) for storing data having the data identifier when the two data identifiers coincide with each other.

The Office Action relies on Sehr for teaching a portable device as a card type device (referring to Sehr's portable visitor card device). In support of the combination, the Office Action states that, "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ellis to use the teaching as taught by Sehr in order to reduce administrative cost, improve productivity, better quality of service, and higher revenues associated with issuance, usage, and processing of the computerized cards (col. 2, lines 2-40)." In particular, it appears that the Office Action is implying that Sehr's visitor card would be a preferable replacement for Ellis 1's remote guide device 24.

Applicant submits that there is no teaching, suggestion, or motivation that would lead one of ordinary skill in the art to modify Ellis with the teachings of Sehr.

Sehr at col. 2 discloses how it's disclosed electronic ticketing system invention would be an improvement over traditional document processing platforms or conventional payment environments. Based on the explicit statements in Sehr, Applicant submits that one of ordinary skill in the art would not consider Sehr's electronic ticketing system as an improvement over Ellis 1's remote guide device, since Ellis 1's program guide is neither a document processing platform nor a payment environment. In particular, Applicant submits that one of ordinary skill would not consider Sehr's visitor card as a preferable replacement or improvement of the remote guide device of Ellis 1. The stated advantage of reduced administrative costs, improved productivity, etc. only indicates that Sehr's visitor ticket may be an improvement over conventional document processing platforms or payment environments in the context of event ticketing.

To the contrary, Applicant submits that if Sehr's visitor card were to be used instead of the portable guide device of Ellis 1, that Ellis 1 would no longer be capable of carrying out its intended operation, i.e. of providing remote access to program guide functions (M.P.E.P. § 2143.01 V.). These arguments apply as well to claim 14.

In addition, the data recording device in claim 19 recites comparable features to the data recording device of claim 1. Applicant submits that at least for the reasons above for claim 1, the rejection fails to establish *prima facie* obviousness for claim 19 and respective dependent claims, as well. In particular, Applicant submits that Ellis fails to teach comparing means that makes a comparison between a data identifier included in data received by the receiving means (e.g., a title of a program that has been received for recording) and a data identifier inputted from the outside (e.g., a title from the remote device 24).



For at least these reasons, Applicant requests that the rejection of claims 14, 19-30 be reconsidered and withdrawn.

### **New Claim**

Claim 31 has been added as a dependent claim of claim 4. With respect to claim 4, which recites a “partial data identifier” for “partial data,” the Office Action refers to an episode/segment of a program series (Office Action at page 6; specifically described in Ellis 2 at para 0179, 0180).

The present specification discloses that in the case of favorite scenes, the portable device stores images of the finest scenes as well as an identifier, providing a capability to utilize the finest scenes as indexes to the partial reproduction of the recorded data. New claim 31 recites features of the partial data, and in particular, that still images of scenes in the performance are selected by user input, wherein the still images are for identifying the partial data.

### **CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert Downs Reg. No. 48,222 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

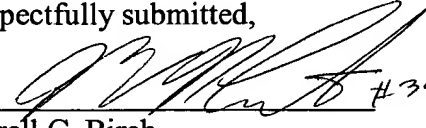
Application No. 09/852,001  
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If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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